

§ 201.1004

17 CFR Ch. II (4–1–11 Edition)

U.S. Code citation	Civil monetary penalty description	Year penalty amount was last adjusted	Maximum penalty amount pursuant to last adjustment	Adjusted maximum penalty amount
	For any other person .....	2002	15,000,000	15,825,000

[70 FR 7607, Feb. 14, 2005]

**§ 201.1004 Adjustment of civil monetary penalties—2009.**

As required by the Debt Collection Improvement Act of 1996, the maximum amounts of all civil monetary penalties under the Securities Act of 1933, the Securities Exchange Act of

1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940, and certain penalties under the Sarbanes-Oxley Act of 2002 are adjusted for inflation in accordance with Table IV to this subpart. The adjustments set forth in Table IV apply to violations occurring after March 3, 2009.

[74 FR 9160, Mar. 3, 2009]

TABLE IV TO SUBPART E OF PART 201—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

Table IV to Subpart E	Civil monetary penalty inflation adjustments	Year penalty amount was last adjusted	Maximum penalty amount pursuant to last adjustment	Adjusted maximum penalty amount
U.S. Code citation	Civil monetary penalty description			
Securities and Exchange Commission:	.....			
15 U.S.C. 77t(d) .....	For natural person .....	2001	\$6,500	\$7,500
	For any other person .....	2005	65,000	75,000
	For natural person/fraud .....	2005	65,000	75,000
	For any other person/fraud .....	2005	325,000	375,000
	For natural person/substantial losses or risk of losses to others.	2005	130,000	150,000
	For any other person/substantial losses or risk of losses to others.	2005	650,000	725,000
15 U.S.C. 78ff(b) .....	Exchange Act/failure to file information documents, reports.	1996	110	110
15 U.S.C. 78ff(c)(1)(B) .....	Foreign Corrupt Practices—any issuer .....	1996	11,000	16,000
15 U.S.C. 78ff(c)(2)(C) .....	Foreign Corrupt Practices—any agent or stockholder acting on behalf of issuer.	1996	11,000	16,000
15 U.S.C. 78u–1(a)(3) .....	Insider Trading—controlling person .....	2005	1,275,000	1,425,000
15 U.S.C. 78u–2 .....	For natural person .....	2001	6,500	7,500
	For any other person .....	2005	65,000	75,000
	For natural person/fraud .....	2005	65,000	75,000
	For any other person/fraud .....	2005	325,000	375,000
	For natural person/substantial losses to others/gains to self.	2005	130,000	150,000
	For any other person/substantial losses to others/gain to self.	2005	650,000	725,000
15 U.S.C. 78u(d)(3) .....	For natural person .....	2001	6,500	7,500
	For any other person .....	2005	65,000	75,000
	For natural person/fraud .....	2005	65,000	75,000
	For any other person/fraud .....	2005	325,000	375,000
	For natural person/substantial losses or risk of losses to others.	2005	130,000	150,000
	For any other person/substantial losses or risk of losses to others.	2005	650,000	725,000
15 U.S.C. 80a–9(d) .....	For natural person .....	2001	6,500	7,500
	For any other person .....	2005	65,000	75,000
	For natural person/fraud .....	2005	65,000	75,000
	For any other person/fraud .....	2005	325,000	375,000
	For natural person/substantial losses to others/gains to self.	2005	130,000	150,000
	For any other person/substantial losses to others/gain to self.	2005	650,000	725,000
15 U.S.C. 80a–41(e) .....	For natural person .....	2001	6,500	7,500
	For any other person .....	2005	65,000	75,000

## Securities and Exchange Commission

## §201.1101

Table IV to Subpart E	Civil monetary penalty inflation adjustments	Year penalty amount was last adjusted	Maximum penalty amount pursuant to last adjustment	Adjusted maximum penalty amount
U.S. Code citation	Civil monetary penalty description			
	For natural person/fraud .....	2005	65,000	75,000
	For any other person/fraud .....	2005	325,000	375,000
	For natural person/substantial losses or risk of losses to others.	2005	130,000	150,000
	For any other person/substantial losses or risk of losses to others.	2005	650,000	725,000
15 U.S.C. 80b-3(i) .....	For natural person .....	2001	6,500	7,500
	For any other person .....	2005	65,000	75,000
	For natural person/fraud .....	2005	65,000	75,000
	For any other person/fraud .....	2005	325,000	375,000
	For natural person/substantial losses to others/gains to self.	2005	130,000	150,000
	For any other person/substantial losses to others/gain to self.	2005	650,000	725,000
15 U.S.C. 80b-9(e) .....	For natural person .....	2001	6,500	7,500
	For any other person .....	2005	65,000	75,000
	For natural person/fraud .....	2005	65,000	75,000
	For any other person/fraud .....	2005	325,000	375,000
	For natural person/substantial losses or risk of losses to others.	2005	130,000	150,000
	For any other person/substantial losses or risk of losses to others.	2005	650,000	725,000
15 U.S.C. 7215(c)(4)(D)(i) .....	For natural person .....	2005	110,000	120,000
	For any other person .....	2005	2,100,000	2,375,000
15 U.S.C. 7215(c)(4)(D)(ii) .....	For natural person .....	2005	800,000	900,000
	For any other person .....	2005	15,825,000	17,800,000

[74 FR 9160, Mar. 3, 2009]

### Subpart F—Fair Fund and Disgorgement Plans

**AUTHORITY:** 15 U.S.C. 77h-1, 77s, 77u, 78c(b), 78d-1, 78d-2, 78u-2, 78u-3, 78v, 78w, 80a-9, 80a-37, 80a-39, 80a-40, 80b-3, 80b-11, 80b-12, and 7246.

**SOURCE:** 69 FR 13180, Mar. 19, 2004, unless otherwise noted.

#### §201.1100 Creation of Fair Fund.

In any agency process initiated by an order instituting proceedings in which the Commission or the hearing officer issues an order requiring the payment of disgorgement by a respondent and also assessing a civil money penalty against that respondent, the Commission or the hearing officer may order that the amount of disgorgement and of the civil penalty, together with any funds received pursuant to 15 U.S.C. 7246(b), be used to create a fund for the benefit of investors who were harmed by the violation.

[70 FR 72570, Dec. 5, 2005]

#### §201.1101 Submission of plan of distribution; contents of plan.

(a) *Submission.* The Commission or the hearing officer may, at any time, order any party to submit a plan for the administration and distribution of funds in a Fair Fund or disgorgement fund. Unless ordered otherwise, the Division of Enforcement shall submit a proposed plan no later than 60 days after the respondent has turned over the funds or other assets pursuant to the Commission's order imposing disgorgement and, if applicable, a civil money penalty and any appeals of the Commission's order have been waived or completed, or appeal is no longer available.

(b) *Contents of plan.* Unless otherwise ordered, a plan for the administration of a Fair Fund or a disgorgement fund shall include the following elements:

(1) Procedures for the receipt of additional funds, including the specification of any account where funds will be held, the instruments in which the funds may be invested; and, in the case of a Fair Fund, the receipt of any funds